

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 98-2415

Elam May, Jr.,

Appellant,

v.

Jodie Jackson; Shawn McKelley; Nikia
Schulte; John Bird, Chaplain,

Appellees.

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Appeal from the United States
District Court for the
Western District of Missouri.

[UNPUBLISHED]

Submitted: July 7, 1999
Filed: July 26, 1999

Before McMILLIAN, LOKEN, and MURPHY, Circuit Judges.

PER CURIAM.

Missouri Department of Corrections prisoner Elam May, Jr., appeals from the district court's¹ adverse grant of summary judgment in his 42 U.S.C. § 1983 action alleging violations, under the First and Fourteenth Amendments and the Missouri Constitution, of his right to freely exercise his religion. After careful review of the

¹The HONORABLE NANETTE K. LAUGHREY, United States District Judge for the Western District of Missouri, adopting the report and recommendations of the HONORABLE WILLIAM A. KNOX, United States Magistrate Judge for the Western District of Missouri.

record and briefs, we conclude the district court properly granted summary judgment on the claimed violations of May's federal constitutional rights because the asserted restrictions are reasonable under the circumstances. See Mayard v. Hopwood, 105 F.3d 1226, 1227-28 (8th Cir. 1997) (summary judgment standard of review); Hamilton v. Schriro, 74 F.3d 1545, 1550-51 (8th Cir.) (considerations for review of government conduct infringing upon free exercise), cert. denied, 519 U.S. 874 (1996). Because the district court had discretion not to exercise supplemental jurisdiction over May's remaining state law claim, see 28 U.S.C. § 1367(c)(3), we affirm the dismissal with prejudice of the federal claims under 42 U.S.C. § 1983, but we modify the dismissal of his state law claims to be without prejudice, see 28 U.S.C. § 2106; see also, e.g., Franklin v. Zain, 152 F.3d 783, 784-86 (8th Cir. 1998).

Accordingly, we affirm as modified. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.